

May 30, 2018

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

PETITION OF SUE PRESENT FOR RECONSIDERATION AND STAY

WT Docket No. 17-79

re: Accelerating Wireless Broadband Deployment by
Removing Barriers to Infrastructure Investment

Madam Secretary:

I previously submitted pertinent Comments and Reply Comments to the FCC, and I now request reconsideration and stay of the Federal Communications Commission's Second Report and Order (Order) in the above-referenced matter, issued March 30, 2018.

Next generation facilities threaten the integrity of neighborhoods and the safety of residents in my local jurisdiction of Montgomery County, Maryland, and throughout the nation. In the relative short period of time since the Commission first released its NPRM and NOI in this matter, my local area has experienced two significant wind storms that toppled utility poles and streetlights. During one wind storm, a fire erupted across from my own historic home.¹ Another time, a utility pole caught fire up the road from my home. So I am acutely concerned about public safety and the safety of public rights-of-way in our communities.

My local area is fortunate to not have suffered the hardships experienced by some other communities. Last week, Ellicott City, Maryland's Historic District was ravaged by flooding. Since the release of the NPRM and NOI, many other communities and locales have been overcome by damaging winds and storms. News stories have reported utility poles snapped or downed across the country. In addition, California's Santa Rosa fires produced enormous destruction, surpassing the 2007 wild fires. In 2007, the wireless host that currently operates under the name Crown Castle was found to have ignored and circumvented safety regulations, resulting in

¹ Lampl, Elizabeth Jo. "Subdivisions and Architecture Planned and Designed by Charles M. Goodman Associates in Montgomery County, Maryland." National Register of Historic Places, Multiple Property Documentation Form, 2004.

the 2007 Santa Monica fires, and the subsequent injuries and the devastating property damages.²

The Order distinguishes the next generation “small cell and DAS” facilities as necessarily in much closer transmission proximities to end users, including in public rights-of-way. In addition, time and again, the Order discusses how next generation facilities are expected to be installed at exponentially greater magnitudes (10 to 100 times greater) compared to installations of previous generation facilities. Yet, rather than fully considering the equally exponential if not greater public safety ramifications, the Commission has turned a blind eye to public safety, with the objective of advancing next generation technology and promoting industry objectives. But, as a reminder, past industry failures to comply with safety codes have had devastating consequences. And, as I detailed in earlier Comments to the Commission, there are numerous ways in which these facilities can threaten the public safety of our communities.³ The Order does not fully contemplate and address these threats to safety.

The Commission anticipates next generation facility installations within public rights-of-way of up to 50 feet or more in height. In addition to having any number of antennas, these facilities may also include intrusive equipment that is attached to the antenna support structures and/or is ground mounted adjacent to the structures. When located in the proximities of residences, including near historic properties like mine, these facilities can have deleterious impacts on community aesthetics, intrusive sensorial characteristics, and they can result in diminished residential property values. The Commission’s Order precipitously dispenses with pre-deployment environmental and historic preservation reviews of many next generation wireless facilities. As Commissioner Roseworcel explains,

[The Commission’s] interpretation of the National Historic Preservation Act is flawed—and likely to have messy consequences for future wireless deployment. The law defines an “undertaking” as a “project, activity, or program funded in whole or part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval.” Count them—there are three elements to that definition: projects carried out by a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval. But [the Commission’s] decision addresses only the first and last elements. ⁴

² Comments of Sue Present, WT Docket No. 16-421, at 1 – 2 (Jan.17, 2016), https://ecfsapi.fcc.gov/file/101160867025032/FCC_comments_WT16421_sPresent.pdf

³ *Id.*, passim.

⁴ Dissenting Statement of Commissioner Jessica Roseworcel, WT Docket 17-79, at 10 (March 30, 2018) <https://ecfsapi.fcc.gov/file/032209835809/DOC-349845A6.pdf>

Recent scientific studies strongly suggest that radiation from these wireless facilities may cause cancer and have other detrimental health impacts, especially in infants and young children. And the Commission has received mounting evidence to indicate that related health concerns manifest as factors in the stigma that diminishes property values.⁵ Yet, the Commission has nevertheless refused in its Order to evaluate the health impacts of the emissions; it has continued to rely on outdated regulations from 1996. Please recall that the General Accountability Office (GAO) issued a report in July 2012 that recommended to the FCC to update its radiofrequency exposure limits. To date, the Commission has not acted on that GAO recommendation. Nevertheless, the FCC is moving forward without regard for the public welfare. This is irresponsible and unacceptable.

Finally, as Commissioner Roseworcel points out, “it’s no secret that rural and low-income communities trail our urban areas when it comes to broadband access.”⁶ As noted in my Comments filed on this matter,

On June 20, 2017 the members of the FCC came before the Senate Appropriations Subcommittee. Numerous senators on the subcommittee emphasized the need for all Americans to have access to broadband, including for remote healthcare services. It would be precipitous to adopt FCC rules that provide [any] expedited deployment and occupancy in public rights-of-way before first imposing obligations to serve our entire nation. One-third of my county’s territory, the Ag(ricultural) Reserve, the rural part of my county, is the service territory where there is not any or adequate wireless voice and/or broadband coverage. It is also where data show residents are older than elsewhere in the County. These older Americans, who do not reside in close proximity to medical services, are characteristic of the more vulnerable members of our society, being among the most in need of access to remote healthcare.⁷

Commissioner Roseworcel has gotten it right: “It’s simple economics — these communities are difficult to serve because they do not provide the return on investment that supports build out. We don’t tackle that hard truth here —or seek commitments to ensure deployment in hard to serve areas. But we should.”⁸


Please reconsider the Order and issue a stay until the Commission completes its review of this and other requests for reconsideration. I also incorporate by reference the Request for

⁵ See supra note 55, Comments of Sue Present, WT Docket No. 16-421.

⁶ See supra J. Roseworcel, at 10.

⁷ Comments of Sue Present, WT Docket No. 17-79 and WC Docket No. 17-84, at 2 (July 14, 2017)

⁸ See supra J. Roseworcel, at 10.

Please reconsider the Order and issue a stay until the Commission completes its review of this and other requests for reconsideration. I also incorporate by reference the Request for Reconsideration and Stay submitted in this proceeding by Edward B. Myers on May 29, 2018. For the convenience of the Commission, I am attaching a copy of Mr. Myers's Request for Reconsideration and Stay with this filing. 

Respectfully submitted,



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